IN THE HIGH COURT OF JUDICATURE
ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE J.CHELAMESWAR
and
THE HON'BLE MR JUSTICE D.APPA RAO

WRIT PETITION NO :19020 of 2006

Dated: 15th September 2006.

Between:

M/s. Balaji Surgicals, Kurnool.

..... PETITIONER

AND

The Additional Commissioner of Commercial Taxes (Legal), Andhra Pradesh, Hyderabad and others

.....RESPONDENTS

THE HON'BLE SRI JUSTICE J.CHELAMESWAR
AND
THE HON'BLE SRI JUSTICE D.APPA RAO

W.P.NO.19020 OF 2006

ORAL ORDER:

(Per the Hon'ble Sri Justice J.Chelameswar)

This writ petition is filed with the prayer as follows:

> " For the reasons stated in the accompanying affidavit it is prayed that this Hon'ble Court be pleased to issue an appropriate Writ, Order or Direction more particularly in the nature of MANDAMUS setting aside the impugned Order of the First Respondent in CCT's Ref.LIII(3)/672/2006, dated 24-8-2006, rejecting the Stay Petition of the Petitioner, and consequently grant stay of collection of the disputed tax of Rs.1,72,278-00 for the Assessment Year 2000-2001 APGST pending disposal of T.A. no.380 of 2006 before the Sales Tax Appellate Tribunal, Hyderabad, and pass such other Order or Orders as may be deemed fit and proper in the circumstances of the case and in the interests of justice."

The petitioner is a partnership firm and a registered dealer both under the A.P.G.S.T. Act and the C.S.T. Act, on the rolls of the 3rd respondent, carrying on business in surgical goods. For the assessment year 2000-2001, the tax liability of the petitioner under the A.P.G.S.T. Act came to be assessed by the 3rd respondent by his order dated

20th November 2001. The said order came to be revised

by the 2nd respondent herein, in exercise of the powers under Section 20(2) of the A.P.G.S.T. Act. Aggrieved by the same, the petitioner carried the matter in appeal before the Sales Tax Appellate Tribunal and along with the appeal, the petitioner filed an application before the 1st respondent seeking stay of recovery of the disputed tax, which is the subject matter of appeal before the Tribunal. The said application was rejected by the 1st respondent by his order dated 24th August 2006. Hence, the present writ petition.

Heard the learned Government Pleader for Commercial Tax.

In the circumstances, we are of the opinion that the matter can be disposed of, at the stage of admission, by directing the respondents not to take any coercive steps for recovery of the tax due from the petitioner, for the abovementioned assessment year, during the pendency of the appeal before the Sales Tax Appellate Tribunal, on condition of the petitioner depositing 50% of the disputed tax, within a period of six weeks from today. The amount of tax paid already, if any, with reference to the abovementioned assessment year, shall be given credit to while computing the 50% of the disputed tax.

Accordingly, with the above directions, the writ petition is disposed of at the stage of admission.

J.Chelameswar, J

D.Appa Rao, J

15th September 2006
mrk